

 NORFOLK Department of Police		Operational General Order - 120: Use of Force	
		Office of Preparation: Strategic Management Division (rck)	
		CALEA:	1.3.1, 1.3.2, 1.3.4, 1.3.5, 1.3.6, 1.3.7, 1.3.8, 1.3.12
		VLEPSC:	ADM.05.01
LEGAL REVIEW DATE:	March 16, 2015	PRESCRIBED DATE:	3/27/15
City Attorney:	<i>Deanne Ringer</i>	City Manager/Director of Public Safety:	<i>Marion D. ...</i>
APPROVED BY THE AUTHORITY OF THE CHIEF OF POLICE:		<i>[Signature]</i>	

Purpose

The purpose of this order is to provide guidelines for the use of force by sworn personnel.

Policy

The Norfolk Police Department is committed to providing the citizens of Norfolk the highest quality public safety services. It is the policy and commitment of the Norfolk Police Department that our officers hold the highest regard for the sanctity of human life, and the dignity and liberty of all. However on the occasion that force is necessary, only the minimal amount of objectively reasonable force needed to effect an arrest will be used.

Supersedes:

1. G.O. OPR-120, dated (05/14/09)
2. Any previously issued directive conflicting with this order

Order Contents:

- I. Parameters for Application of Force
- II. De-escalation
- III. Supervisor/Investigator Responsibilities
- IV. Death or Serious Injury as a Result of Use of Force
- V. Medical Treatment
- VI. Authorized Weapons (excluding firearms)

I. Parameters for Application of Force (CALEA 1.3.1)(VLEPSC 05.01.a)

- A. Department members may use physical force to effect an arrest, prevent an escape, prevent the commission of a crime, or to defend themselves or a third party from injury or death. The type and degree of force used must be reasonable based upon the totality of the circumstances involved in effecting the arrest.
- B. Objectively Reasonable Standard

When an officer decides to use force in the course of his/her duties, the action taken by the officer(s) must meet the “Objectively Reasonable Standard” established by the Supreme Court of the United States (SCOTUS) in their ruling on *Graham v. Connor*, 490 US. 386 (1989). Only that force that is objectively reasonably necessary to successfully accomplish legitimate police functions is authorized. The use of any force by department personnel that exceeds that which is “objectively reasonable” will be considered excessive and will not be tolerated.

1. Determining Objectively Reasonable Force:

There are several factors to consider when determining what actions are objectively reasonable in light of the facts and circumstances presented to the officer. Individual officer’s perception of the threat is one of several determining factors that will be used to determine the reasonableness of force. The totality of circumstances and/or any of the below factors, will be considered:

- a. The severity of the crime.
 - b. The subject poses an immediate threat to the safety of the officers or others.
 - c. Whether the subject is actively resisting or attempting to flee.
 - d. The influence of drugs/alcohol or the mental capacity of the subject.
 - e. How rapidly the event is unfolding.
 - f. The availability of officers to de-escalate the event.
 - g. The proximity of weapons to the subject.
 - h. The environmental factors.
 - i. Any other exigent circumstances.
2. Officers will use that level of force that policy, training, and their experience, prescribes to be objectively reasonable. Current physical condition, size, and ability of the officer, as well as the physical condition, size, and ability of the suspect shall all be considered when determining objective reasonableness of the range of force used to de-escalate the situation and bring it under control in a safe and prudent manner.

C. Duty to Intervene

Any officer, regardless of rank, present and observing another officer using force that is clearly other than objectively reasonable given the situation shall safely intercede to end and prevent further excessive force. Officers will immediately report these observations to a supervisor.

D. Levels of Resistance

There are many reasons why a person may not be complying with an officer's commands. The person in question may not fully understand the gravity of the situation for many reasons including; medical conditions, mental, physical, or hearing impairment, language barriers, the person may be in an emotional crisis, and have no criminal intent. While this does not make the unfolding situation any less dangerous it may require a change in perspective on the officer's part in order to be more effective while maintaining officer safety. The officer will consider the suspect's ability, intent and means to successfully resist when utilizing objectively reasonable force to control the suspect.

1. **Passive Resistance:** a subject physically refuses to comply or respond without attempting to physically defeat the officer's actions but forcing the officer to employ physical maneuvers to establish control.
2. **Active Resistance:** Physically evasive movements to defeat an officer's attempt to control, such as, bracing, tensing, attempts to push/pull away or not allowing the officer to get close. This can include serious verbal threats implying harm if the officer attempts restraint procedures. The officer will consider the suspect's ability and intent to resist when utilizing objectively reasonable force to control the suspect.
3. **Aggressive Resistance:** A subject makes overt hostile attacking movements which may cause injury but are not likely to cause death or great bodily harm to the officer or others.
4. **Aggravated Resistance:** A subject makes overt, hostile attacking movements with or without a weapon with the intent and apparent ability to cause death or great bodily harm to the officer or others.

E. Levels of Control (VLEPSC 05.01.b,c,d)

When the use of force is needed, officers will assess each incident to determine which use of force option is appropriate for the situation based on the totality of the circumstances. Policy, training, and their experience, as well as the current physical condition, size and ability of the officer, and the suspect, will all be considered when determining the objective reasonableness of the range of force used to control the situation in a safe and prudent manner. The officer must use the amount of force that is objectively reasonable to overcome the resistance in order to take the lawful police action. The amount of force used must be proportionate to the circumstances and the level of resistance encountered by the officer.

1. **Low Level Force** – The level of control necessary to interact with a subject that is compliant, or displaying Passive or Active Resistance. This level of force is not intended to, and has a low probability of causing injury. Examples of Low Level Force range from voice commands to control holds and take downs.
2. **Intermediate Force** – The level of force necessary to compel compliance from a subject displaying Aggressive Resistance. Intermediate force is not intended nor likely to result in death. Examples of Intermediate Force range from strikes, baton use, to K-9 deployment.
3. **Deadly Force**- Deadly force is that degree of force which is likely to produce death or serious bodily injury. Officers may use deadly force upon another person only when it is objectively reasonable under the following circumstances:
 - a. **Imminent Danger:** To defend and protect oneself or another when the officer reasonably believes that he or she or another person is in imminent danger of death or serious physical injury.
 - b. **Fleeing Felony Suspect:** To apprehend a fleeing felony suspect when the officer has probable cause based upon personal knowledge of the offense involved and the surrounding circumstances to believe that:
 1. The suspect has committed, attempted to commit, or is committing a felony offense involving use of violent physical force against a person; and
 2. The suspect poses an imminent threat of death or serious physical injury to the officer or other person(s).

F. Use of Authorized Weapons

Officers may use only authorized weapons in conformance with the policies set forth in this order, consistent with training provided by the Norfolk Police Department and in compliance with orders listed below. Use of weapons not issued by the Department or authorized by the Chief of Police is strictly prohibited other than the circumstances listed in Section I.E.3 of this order, and in compliance with the following orders:

1. G.O. OPR-110: Firearms.
2. G.O. OPR-130: Conductive Energy Device
3. G.O OPR-640: K9 Patrol and Explosive Detector Dogs

G. Use of Force to Head, Face, Neck, or Throat

Officers will not use any weapon or object to intentionally strike another in the head, face, neck, throat, or to choke a suspect, under any circumstances other than those stated in Section I.E.3. of this order.

H. Exceptions to Use of Authorized Weapons and Force (CALEA 1.3.2)

Police personnel may use whatever means, methods, instruments, or techniques which are immediately available in any instance in which the use of deadly force is authorized under Section I.E.3.

I. Reporting Use of Force (CALEA 1.3.6)

Officers will be required to report every incident involving the use of force in the performance of police duty or activity as directed in G.O. OPR-140: Special Incidents Reports (SI). The officer must complete a Use of Force Report via the Electronic Reporting System (ERS). In the event the ERS is unavailable, reporting officers will maintain a written account of the event in question, and will complete the ERS entry as soon as the program is available. Additionally, reporting officers will notify their immediate supervisor when the ERS program is inoperable and the report cannot be completed by the end of their tour of duty.

II. De-escalation

Safe de-escalation of the situation should be the ultimate goal of each officer responding to a potentially violent incident. When reasonable, considering the totality of the circumstances, officers should use all the information available to them at the time to evaluate the incident. The responding officers should assess the risks and coordinate the appropriate resources necessary to facilitate an outcome that involves the minimal objectively reasonable use of force while being mindful of the sanctity of life of all involved. Supervisors should make every effort possible to respond to a scene where use of force is probable.

III. Supervisory/Investigative Responsibilities (CALEA 1.3.7)

Supervisors will be responsible for reviewing all reports of use of force by officers under their supervision.

A. The reviewing supervisor will:

1. Inquire sufficiently and specifically to determine the nature of force used and by whom.
2. Clarify all facts and circumstances pertaining to such incidents to determine whether the degree of force used was reasonable.

3. When appropriate, initiate corrective or disciplinary action.
4. Verify that the force used by each officer is fully and accurately reported via the ERS, as outlined in G.O. OPR-140: Special Incident Reports (SI).
5. In the event of serious physical injury or death, the supervisor will notify the Field Commander and a Detective Division supervisor.

B. The Detective Division will:

1. Conduct a criminal investigation of use of force incidents resulting in serious physical injury or death.
2. Submit copies of the investigation file to the Chief of Police as soon as it is appropriate and possible. If appropriate, the Chief of Police will forward copies to the Commonwealth's Attorney's Office.
3. Maintain the investigation file until:
 - a. A final decision is made by the appropriate official or agency not to indict and/or prosecute; and
 - b. If there is a prosecution, until all proceedings, including appeals and habeas corpus proceedings, have been finally concluded; and
 - c. To the extent Detective Division procedures require further retention of files, until such procedures permit disposition.

C. The Office of Professional Standards will:

1. Conduct a parallel administrative investigation for all use of force incidents involving death or serious physical injury, alleged felonies or misdemeanors related to the use of force, and to all discharge of firearms. Any such parallel investigation in which there is a risk of a negative impact upon, or prejudice to the criminal investigation and/or prosecution, will be suspended until the criminal investigation has been completed or the risk of negative impact or prejudice has been resolved.
2. Be provided with all the facts, materials and evidence developed by the criminal investigation when their disclosure will not have an adverse impact on the criminal investigation and/or prosecution.
3. Maintain a separate set of records and prepare cases as required for departmental board hearings, grievance panels, and trial board proceedings.

D. The Commanding Officer of the Training Division will: (CALEA 1.3.12)

1. Ensure all personnel are issued copies of and are instructed in the policies and procedures contained in this general order. The issuance of the policies will be documented.
2. Conduct an annual analysis of ALL Use of Force incidents. This analysis should assess the use of force incidents to aid the department in identifying possible trends, patterns or other issues that would indicate the need for revision to policies, equipment upgrades, or the need for additional training of personnel. The results of this documented analysis will be provided to the Chief of police no later than January 31st for the previous year's results. (CALEA 1.3.13)

IV. Death or Serious Injury as a Result of Use of Force (CALEA 1.3.8)

- A. Any officer directly involved in a shooting or other use of force resulting in death will be removed from street duty assignment by the commanding officer, pending an administrative review by the Chief of Police as required by ADM-395 Administrative Duty.
- B. Any officer directly involved in a shooting or other use of force resulting in serious physical injury may be removed from street duty assignment at the discretion of the commanding officer or designee, pending an administrative review by the Chief of Police.
- C. The commanding officer will refer the officer, as soon as practical, for critical incident debriefing via the department's designated medical treatment facility for a fit for duty evaluation and, if necessary, psychological counseling and/or treatment under the following criteria:
 1. Death as a result of use of force – Mandatory referral
 2. Serious Injury as a result of use of force – At the commanding officer's discretion.
 3. At the request of any officer involved in the use of force incident.

V. Medical Treatment (CALEA 1.3.5)

- A. When an officer's use of force results in injury to a person, the officer will ensure the person is afforded adequate first aid and/or transported to a medical facility for evaluation and treatment.
- B. When in doubt about the medical condition of a person, the officer will ensure the person is transported to a medical facility for evaluation and treatment.
- C. Under no circumstance should an officer make any commitment to a person or medical care provider regarding the payment of treatment expenses. This excludes injured police personnel requiring medical treatment.

D. Transportation, security requirements, and documentation for medical treatment of prisoners will be in accordance with G.O. OPR 210: Transporting Prisoners, and G.O. OPR 230: Prisoner Booking.

E. Chemical Agents:

1. Any person subjected to chemical agents through an officer's use of force should be advised not to rub his or her eyes.
2. As soon as practical, the affected person shall be permitted to rinse affected areas with water.
3. Persons having adverse reactions to chemical agents following the rinsing procedure shall be considered injured and treated as prescribed in Section VI.A above.

VI. Authorized Weapons Excluding Firearms (CALEA 1.3.4, 1.3.10, 1.3.11)

All personnel authorized to carry and use any weapon must, as a prerequisite to its carrying or use, complete training biennially and satisfy qualification standards prescribed by the Department.

A. Police Baton

1. Officers are permitted to purchase police batons at their own expense, and to use them instead of batons issued by the department provided:
 - a. The individually purchased batons comply with G.O. ADM-320: Dress and Personal Appearance.
 - b. Officers must successfully complete the department approved baton proficiency training.
2. If carried, batons will be used only in accordance with departmental training, except as authorized in Section I.H of this order.

B. Flashlights

1. Officers may purchase flashlights, at their own expense, and use them instead of the department issued flashlight. Optional flashlights must be silver or black and have a battery capacity no larger than five D cells or seven C cells and weigh no more than three pounds.
2. Some optional flashlights may be used for illumination and defensive purposes. When the flashlight is used as a defensive weapon, the manner of use will be in accordance with departmental training in the same manner as a police baton except as authorized in Section I.H of this order.

C. Chemical Agents

1. Those officers holding the rank of sergeant or below are required to carry the issued Oleoresin Capsicum Spray (OC) while on-duty or while working extra duty in a police capacity, unless to do so would hamper an undercover investigation or operation. Officers seeking an exemption for this reason must obtain their commanding officer's approval prior to every undercover assignment. OC canisters should be checked periodically and as soon as practical following use. The Property and Evidence Unit (P&E) will issue new canisters when:
 - a. The canister weighs less than 65% of its original weight. Scales are available at the Police Operations Center (POC) desk and P&E.
 - b. The expiration date of the OC has passed.
 - c. The canister does not function properly.
2. Officers will turn in depleted, malfunctioning or outdated canisters to P&E, Monday through Friday, excluding holidays, during P&E normal working hours.
3. Officers working shifts outside normal P&E hours should submit canisters for return to P&E by "dayshift" personnel. The returned canister should be labeled with the officer's name, assignment, and working hours so that the replacement canister may be provided by the start of the submitting officer's next shift.
4. The Training Division will use returned OC canisters as training and research aids.

Definitions:

Serious Physical Injury: A physical injury that creates a substantial risk of death, causes serious permanent disfigurement, or results in long-term loss or impairment of the function of any bodily member or organ. The threat of serious physical injury is one of the exceptions in the use of force policy, Section I.G. of this order.

Objectively Reasonable Force: An objective standard of force based on the perception of a reasonable officer, and based on the totality of the circumstances presented at the time of the incident.

Reasonable Belief: An objective standard based on whether a reasonable officer would have perceived the incident given the totality of the circumstances at the time of the incident, the same.

Related Documents:

1. G.O. ADM-320: Dress and Personal Appearance
2. G.O. ADM-330: Workers' Compensation
3. G.O. ADM-395: Administrative Duty
4. G.O. OPR-110: Firearms
5. G.O. OPR-130: Conductive Energy Device
6. G.O. OPR-140: Special Incident Reports
7. G.O. OPR-210: Transporting Prisoners
8. G.O. OPR 230: Prisoner Booking
9. G.O. OPR-640: K9 Patrol and Explosive Detector Dogs
10. S.O. 14-002: Blue Team Software Program

Attachments

- A. Approved Less Lethal Weapon Specifications

Less Lethal Weapons Specifications (CALEA 1.3.9)

Type:	Pepperball Technologies: less than lethal
Make:	Pepperball
Model:	Carbine - SX
Nomenclature:	Semi-Auto, compressed air operated, hopper fed
Authorized Ammunition:	.68 grain Capsaicin rounds

Type:	Gas gun
Make:	Penn Arms
Model:	SL-6 (Multi Launcher)
Nomenclature:	37mm, 6 shot, magazine wind, 12" smooth bore barrel, double action trigger
Authorized Ammunition:	37mm OC gas, 37mm CS gas

Type:	OC Spray:
Make:	SABRE ®
Model:	SABRE Red
Nomenclature:	10% OC (Oleoresin-Capsicum)
Authorized Delivery Systems:	Aerosol Projector

Type:	Baton
Make:	Monadnock
Model:	MP Straight Baton
Nomenclature:	Rigid, 1 ¼" Polycarbonate, Grenade Grip
Size:	24"

Less Lethal Weapons Specifications (CALEA 1.3.9)

Type:	Baton (Optional Purchase)		
Make:	Monadnock		ASP
Model:	MX-24 Expandable	AutoLock	Talon
Nomenclature:	Positive Lock, Polycarbonate	AutoLock,	DiscLock
Authorized Size:	24"	21", 23", 26"	16", 21", 26"